

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION AT COLUMBUS**

JOSEPH SHINE-JOHNSON,

Petitioner,

: Case No. 2:20-cv-1873

- vs -

Chief Judge Algenon L. Marbley
Magistrate Judge Michael R. Merz

WARDEN,

Belmont Correctional Institution,

:

Respondent.

**DECISION AND ORDER ON MOTION TO COMPEL AND MOTION
FOR LEAVE TO FILE AFFIDAVITS**

This habeas corpus case is before the Court on Petitioner's Motion to Compel (ECF No. 36) and Motion for Leave to File Affidavit (ECF No. 43).

As the Magistrate Judge understands the Motion to Compel, Shine-Johnson wants the Court to compel Belmont Correctional to print out email messages he has received from Alexis Quinn through the JPay service. The Court simply does not understand why a court order is needed. If the print outs would be available to a prisoner on payment of a fee and Shine-Johnson wants a court order to avoid payment of the fee, the Magistrate Judge is reluctant to enter such an order because Shine-Johnson has provided no proof that he cannot pay. More fundamentally, Petitioner is asking the Court to compel discovery of information in the control of the Respondent without having shown the discovery is warranted under the habeas corpus standards for discovery.

Shine-Johnson apparently knows what is in the emails because he represents the content is relevant to his case. There is nothing preventing him from preparing his own affidavit about that

content and submitting it to the Court in support of a motion for discovery. If the Court requires corroboration of the content by examining the originals, an order compelling production can be entered at that time.

Accordingly, Petitioner's Motion to Compel is DENIED without prejudice to its renewal if the original content of the emails needs to be proven later. Petitioner should prepare his motion for discovery, supported by his own affidavit, and file it as promptly as possible. To that extent his Motion for Leave to File Affidavit is GRANTED.

January 16, 2021.

s/ Michael R. Merz
United States Magistrate Judge